

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ROBERT SHAH,)	
)	Civil Action No. 04-259E
Plaintiff,)	
)	Magistrate Judge Baxter
v.)	
)	
WALTER RHINEHART, Psy. D.,)	Electronically Filed
HERBERT BEAM, M.D.,)	
JAMES L. FLETCHER, M.D.,)	
DENNIS OLSON, M.D.,)	
VIOLETTE GEZA,)	
STEVEN LABOZZI,)	
BONNIE SAYLOR,)	
JUDITH GLENN, and)	
CHARLES MONTGOMERY)	
)	
Defendants.)	

**MOTION TO DISMISS OR IN THE ALTERNATIVE
MOTION FOR SUMMARY JUDGMENT**

AND NOW, come Defendants, Walter Rhinehart, Herbert Beam, James Fletcher, Dennis Olson, Violette Geza, Steven LaBozzi, Bonnie Saylor, Judith Glenn and Charles Montgomery, by and through their attorneys, Mary Beth Buchanan, United States Attorney for the Western District of Pennsylvania, and Lee J. Karl, Assistant United States Attorney for the same district, and pursuant to Federal Rule of Civil Procedure 12(b)(6), respectfully move the Court to issue an Order dismissing, with prejudice, Plaintiff's complaint, as Plaintiff has failed to state a claim upon which relief can be granted. In the alternative, Defendants respectfully move the Court, pursuant to Federal Rule of Civil Procedure 56, to grant summary judgment in favor of Defendants, as there are no genuine issues of material fact and Defendants are entitled to judgment as a matter of law.

A Memorandum of Law in support of this Motion is being filed simultaneously herewith and the contents therein incorporated by reference.

WHEREFORE, Defendants, Walter Rhinehart, Herbert Beam, James Fletcher, Dennis Olson, Violette Geza, Steven LaBozzi, Bonnie Saylor, Judith Glenn and Charles Montgomery, respectfully request that the Court issue an Order dismissing Plaintiff's complaint with prejudice or, in the alternative, grant summary judgment in favor of Defendants with regard to all claims.

Dated: November 21, 2005

Respectfully Submitted,
MARY BETH BUCHANAN
UNITED STATES ATTORNEY

s/ Lee J. Karl
LEE J. KARL
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within Defendants' Motion to Dismiss, or in the alternative, Motion for Summary Judgment was served via First Class U.S.

Mail on this 21st day of November, 2005, upon the following:

Robert Shah
22455 Carlisle
Dearborn, MI 48124

s/ Lee J. Karl
Lee J. Karl
Assistant U.S. Attorney